

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting Investigation and Order to Show Cause on the Commission's Own Motion into the Operations and Practices of Mr. Move Moving & Storage, Inc., a California Corporation, Doing Business as Load Rock N Roll Moving and Storage, Right Now Moving and Storage, Same Day Moving, Short Notice Moving and Storage, A All-American Relocation, Load Lock N Roll, Long Beach Security Storage, Mister Move, and Its President, Eli Galam.

Respondents.

Investigation 05-04-019
(Filed April 21, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION TO STRIKE**

Background

On April 21, 2005, the Commission opened this investigation to determine whether respondents had violated various provisions of the Household Goods Carrier Act and Commission regulations. Pursuant to the schedule adopted at the prehearing conference, the Commission's staff filed its testimony on July 28, 2005. Respondents filed their responsive testimony on August 26, 2005.

On September 19, 2005, respondents moved to strike all allegations made in staff's testimony that were not made in the declarations supporting the April 21, 2005 Commission order. With hearings set to begin only two days later,

on September 21, 2005, staff's response to the motion was scheduled to be filed on October 3, 2005. The hearings were held as scheduled.

In their motion, respondents contended that the Commission's decision required staff to move to amend the decision if staff raised additional allegations. Because staff's testimony included declarations and evidence regarding 23 additional moves, respondents argued that staff should have moved to amend the decision, and that the testimony should be stricken from the record. Respondents also objected to staff circulating three declarations regarding recent moves only five days before hearings.

Staff responded that respondents' motion was untimely, and that the delay constituted a waiver of their right to object. Staff pointed out that respondents had waited from July 28 until September 19, two days before hearings, to make their motion.

Staff also argued that respondents' motion lacked merit. The Commission's decision required a motion to amend only where staff sought to add "additional respondents or to raise additional issues." Staff explained that its testimony included further evidence of its original allegations; namely, inadequate supervision and holding goods hostage. As such, no motion to amend was required. Staff also stated that it provided the evidence of the recent moves as soon as it was available.

Ruling

Respondents' motion is denied as untimely and without merit. Consistent with the Commission's decision, staff prepared additional testimony on its original allegations. Staff did not propose additional respondents or allege violations of other law or regulations. Accordingly, staff was not required to amend the Commission's decision. By waiting seven weeks to file their motion

on the eve of hearing, respondents also waived any right they might have had to object to the testimony.

Staff's evidence of three recent moves was presented as soon as available. While, ideally, this should have been presented earlier, respondents' had sufficient time to review their records on these three moves prior to hearings.

Therefore, **IT IS RULED**, that the motion of Mr. Move Moving and Storage and Eli Galam to strike allegations in staff's testimony is denied.

Dated October 18, 2005, at San Francisco, California.

/s/ MARIBETH A. BUSHEY

Maribeth A. Bushey
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Strike on all parties of record in this proceeding or their attorneys of record.

Dated October 18, 2005, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

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